

FREQUENTLY ASKED QUESTIONS E-46 PROPOSED CLASS ACTION SETTLEMENT

1. What is this lawsuit all about?

A class action lawsuit was filed in October of 2006 alleging that the sub-frames on 1999 to 2006 model BMW 3 Series vehicles were defective in that the rear axle supports weaken from the loading and unloading associated with normal driving, eventually fracturing and ripping away from the chassis sheet metal. The lawsuit asserts claims against BMW of North America, the distributor of BMW vehicles, for breach of warranty and violation of consumer protection laws. BMW of North America has expressly denied and continues to deny all charges of wrongdoing or liability against it arising from the allegations and claims asserted in the lawsuit, including that the vehicles at issue are defective.

2. Am I a member of the Class?

The Class consists of all United States residents who either:

- (1) currently own or lease a Class Vehicle or
- (2) formerly owned or leased a Class Vehicle and incurred out of pocket expense relating to the repair of his/her vehicle's sub-frame due to the Sub-frame Condition.

Excluded from the Class are:

- (1) BMW NA, its subsidiaries and affiliates, officers, directors, and employees;
- (2) Insurers of Class Vehicles;
- (3) All entities claiming to be subrogated to the rights of Class Members;
- (4) Issuers of extended vehicle warranties;
- (5) Individuals who validly opt out of the settlement;
- (6) Any judge to whom this matter is assigned, and his or her immediate family;
- (7) Any current or former lessee of a Class Vehicle whose Class Vehicle was modified for racing, whether sanctioned or not;
- (8) Any current or former owner or lessee of a Class Vehicle that has been modified with suspension parts and/or wheels of a different size; and
- (9) Any current or former owner or lessee of a Class Vehicle that has released his/her claims against BMW NA related to the Sub-Frame Condition.

3. What is a Class Vehicle?

Class Vehicles means all E-46 1999 to 2006 model year 3 Series BMW vehicles.

4. What is a sub-frame?

The sub-frame or rear axle carrier on the E-46 is a tubular steel fixture which is bolted to the unibody of the car. The main purposes of the sub-frame are to provide attachment points for the rear suspension, rear differential, and other parts, as well as to isolate these moving parts from the body of the car to improve noise, vibration and harshness characteristics.

5. What is a Sub-Frame Condition?

Sub-Frame Condition refers to a fracture or fractures of the rear axle supports for the sub-frame of the Class Vehicles.

6 What is meant by the term “Effective Date” mentioned in the Notice to the Class and in the Settlement Agreement?

The “Effective Date” is the first date after the Court enters a Final Order and Judgment approving the settlement and all appellate or review rights with respect to the Final Order and Judgment have expired or have been exhausted. The parties believe that September 3, 2009 is the earliest possible “Effective Date”. However, that date may be extended if court approval is delayed or if appeals are filed. You should check the website www.e46subframeclassactionsettlement.com for updates regarding the effective date.

7. Do I need to hire my own attorney?

No, the Court has appointed the law firms listed below as Class Counsel and they represent the interest of all of the Class Members. If you wish, you may contact them directly to ask any questions you may have. You will not be individually charged for their time, as their fees will be paid out of the settlement as approved by the Court. However, if you wish to retain your own attorney, you may do so, but it is at your own cost.

GIRARD GIBBS LLP

Eric H. Gibbs
601 California Street, 14th Floor
San Francisco, California 94108
Telephone: (415) 981-4800
Facsimile: (415) 981-4846
Melissa M. Harnett

WASSERMAN, COMDEN & CASSELMAN, LLP

5567 Reseda Boulevard, Suite 330
Post Office Box 7033
Tarzana, California 91357-7033
Telephone: (818) 705-6800
Facsimile: (818) 345-0162

8. I don’t want to be a part of this Class Action, what do I do?

If you do not want to stay in the Class, then you must send a written notice of your request to exclude yourself from the Class, postmarked no later than July 15, 2009. To exclude yourself, please be sure and carefully follow all of the requirements listed in paragraph 8(b) of the Notice to Class Members of Proposed Class Action Settlement. The Notice can be found on www.e46subframeclassactionsettlement.com.

9. What if I don’t like the settlement, what can I do?

If you are a member of the Class and if you do not request to be excluded, you may object to the terms of the settlement or to the Class Counsel’s request for attorney’s fees and expenses. To object, please be sure and carefully follow all of the requirements listed in paragraph 8(c) of the Notice to Class Members of Proposed Class Action Settlement. The Notice can be found on www.e46subframeclassactionsettlement.com.

10. If the settlement is approved, will I have to pay any fees to the Class Counsel?

No, if the settlement receives final approval, all attorneys fees and costs will be paid by BMW NA. You will not have any attorneys fees or costs.

11. What are the chances that my car has a Sub-Frame Condition?

BMW NA estimates that cars produced prior to February 2000 may experience the Sub-Frame Condition at a rate believed by BMW NA to be below 2 percent. For Class Vehicles produced beginning in February of 2000 and after, BMW NA believes the rate of Sub-Frame Conditions is extremely low and BMW believes that it will be below 0.1 percent. Plaintiff and Class Counsel have not adopted BMW NA's estimates or position in this regard.

12. If I have already paid for a sub-frame repair, am I entitled to reimbursement?

Under the terms of the settlement, you may be entitled to reimbursement. To determine if you are entitled to reimbursement, you need to submit a Claim Form and the required documentation specified therein. A Claim Form accompanied the Notice that was sent to Class Members. It is also available on www.e46subframeclasssettlement.com. The Claim will be reviewed to determine eligibility for reimbursement.

13. If I do nothing at all, what happens?

If you do nothing at all, and if Final Approval of the settlement is obtained, you will be bound by the terms of the Court's Order approving the settlement. That means that if you are a Class Member you will be eligible to receive all the benefits of the settlement upon compliance with its terms. It also means that you will have released BMW of North America from all legal claims described in paragraph F of the Settlement Agreement. You can obtain a copy of the Settlement Agreement from the website www.e46subframeclasssettlement.com.

14. Who do I send my claim to for reimbursement?

You send your claim to E-46 Sub-Frame Class Action Settlement c/o Gilardi & Co., LLC, P.O. Box 808054, Petaluma, CA 94975-8054.

15. Where do I take my BMW for inspection to determine if it has a Sub-frame Condition?

You may take your vehicle to any authorized BMW Center.

16. Is there a deadline for me to bring my vehicle in for inspection?

If you own or lease a Class Vehicle with an expired New Car, Certified Pre-Owned or BMW Extended Warranty, you have one year from the effective date of the settlement to bring your car into a BMW Center for inspection. If you own or lease a Class Vehicle that has a non-expired New Car, Certified Pre-Owned or BMW Extended Warranty, you have one year from the expiration of your warranty to bring your car in to a BMW Center for inspection.

17. Am I required to bring my car into a BMW Center for inspection?

No. It is up to you whether you want to have your vehicle inspected to determine if a Sub-frame Condition exists.

18. If an inspection of my vehicle indicates that it has a Sub-frame Condition, who does the repair?

All repairs under the settlement will be performed by authorized BMW Centers and their approved body shops.

19. If I am not happy with my local authorized BMW Center doing the inspection, can I have it inspected by a third party?

Only authorized BMW Centers are approved to perform the inspection and, if necessary, repairs. However, you are always free to have your vehicle inspected by an independent facility of your choice but it will be at your cost. You will not be reimbursed for having your vehicle inspected by an independent third party.

20. Is BMW instituting a recall of the Class Vehicles?

No. BMW NA is not conducting a recall as part of this Class Action Settlement. It is BMW NA's position that it has no reported cases of an accident caused by a Sub-frame Condition and has not seen any evidence of a safety issue that may cause personal injury as a result of the Sub-frame Condition.

21. What if BMW rejects my claim for reimbursement or that I disagree with the amount that they pay?

The settlement provides a procedure for Class Members with the assistance of Class Counsel, to participate in a dispute resolution process of all disputed claims. If the parties can't reach agreement regarding a rejected claim, all of those disputes may be jointly presented to the Court for a final determination. No parties will have any right to appeal the Court's decision. If the Court declines to rule on the dispute over the rejected claims, all of the rejected claims will be submitted jointly by Class Counsel to a mutually acceptable arbitrator. The arbitration will be binding on all of the parties.